IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 29368 of 2007(U)

PETITIONER:

N.M.KHALID, S/O.MOHAMMED KUNHI,
NHERU HOUSE, P.O.KUTTIKOLE, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY ITS SECRETARY,
HOME DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. ADDITIONAL DISTRICT MAGISTRATE,
KASARAGOD.

3. THE COMMISSIONER, LAND REVENUE,
PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER MR. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 29368 OF 2007 U
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Dated this the 10th October, 2007

J U D G M E N T

The challenge in this writ petition is against Ext. P1 order cancelling the gun licence issued to the petitioner and its confirmation in Ext. P3 appellate order.

2. The petitioner was granted a gun licence for protecting his crops. During the currency of the licence he has gone abroad. Apparently he had entrusted the weapon with his brother who also hold his power-of-attorney. The power-of-attorney had applied for renewal of the licence from 30-4-2006. The 2nd respondent granted an opportunity of hearing to the power-of-attorney holder and passed Ext. P1 holding that the power-of-attorney holder is not competent to retain the weapon, that the licensee has already left to abroad without depositing the weapon and that that is a clear violation of the conditions. Accordingly, the licence was cancelled. It is this order which was confirmed by the appellate authority in Ext. P3.

3. The learned counsel for the petitioner raised two contentions. One is that in terms of condition No. 3 of Ext. P4 licence the licensee was entitled to entrust the weapon with the power-of-attorney holder who is none other than his brother. Condition No. 3 of Ext. P4 licence is extracted below for reference:

> "3. He shall not lend any arms or ammunition covered by this licence to any person, other than a member of his family or servant who may be employed by the licensee to protect the crops or cattle situated in the area specified in the licence and who is mentioned in column 2 of the licence."

In terms of this condition although in certain circumstances the weapon can be entrusted to another person, the name of such person should be mentioned in column 2 of the licence. The licence shows that column 2 is totally blank. Thus is in the absence of the name of the person in whose custody the weapon was given in column 2 of the licence, condition No. 3 relied on by the petitioner does not help him in any manner.

4. The other contention raised by the counsel for the petitioner is by placing reliance on Rule 54 of the Arms Rules, 1962. According to the learned counsel in terms of this rule, a person other than a licensee can

also make application for renewal. I have gone through Rule 54(3) as well. This rule provides that an application for renewal of a licence for a weapon deposited under Rule 47(1) may be made by the depositor, or where it is not practicable to make the application direct, through the dealer or any other person auithorised by him in this behalf while the arms or ammunition continue to be so deposited. Therefore the condition precedent for invoking Rule 54(3) is that at the time the application is made the weapon should be in deposit with an authorised person. In this case, not only at the time of application, but even at the time when the power-of-attorney holder was called for hearing by the 2nd respondent, the weapon was in the possession of the power-of-attorney holder. This clearly infringes Rule 54(3). Therefore this rule does not advance the case of the petitioner.

I do not agree with the counsel on the above two contentions.

Writ petition fails and is dismissed.

ANTONY DOMINIC,
JUDGE

jan/-